

Remarks

This response is provided in reply to the Office Action mailed **June 1, 2005**. Pending claims 1-36 were rejected under 35 USC §102(e) and 35 USC §103(a) as detailed below.

With this response, claims 1, 9, 13, 21, 25, and 33 have been amended to more clearly denote that which Applicant believes to be the invention. Support for the amendments can be found in the original specification, figures and/or claims and, in this regard, no new matter has been introduced.

Without conceding the appropriateness of the rejection of any claims, Applicant has cancelled claims 4, 5, 16, 17, 28, and 29 without prejudice. Claims 37-42 were cancelled in a prior response.

Claims 1-3, 6-15, 18-27, and 30-36 remain pending with this application. In view of the foregoing amendments and subsequent remarks, reconsideration of the application is respectfully requested.

§102(e) Rejection of Claims 1-2, 4-14, 16-26, and 28-36

In **paragraph 2** of the Action, claims 1-2, 4-14, 16-26, and 28-36 are rejected under 35 USC § 102(e) as being anticipated by Brendel (US Patent No. 6,772,333B1). Claims 4, 5, 16, 17, 28, and 29 have been cancelled without prejudice, thus, the rejection of claims 4, 5, 16, 17, 28, and 29 is moot. Applicant has selectively amended base claims 1, 9, 13, 21, 25, and 33 to more clearly denote that which Applicant believes to be the invention. For at least the reasons set forth below, Applicant submits that claims 1-2, 4-14, 16-26, and 28-36 are not anticipated by Brendel.

The Manual of Patent Examining Procedure ("MPEP"), in § 2131, states:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal*

Bros. V. Union Oil Co. California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 869 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Thus, under 35 U.S.C. § 102, a claim is anticipated *only if* each and every element of the claim is found in the cited reference and the cited reference must show the invention in as complete detail as contained in the claim.

Amended claim 1 recites (emphasis added):

receiving a data packet from a source;

determining whether a session identity exists for a communication session with the source;

*encapsulating the received data packet in a flow header including at least **two** of a flow message type field, a flow option field, a source port identity field, a destination identity field and a session identity field in the header of the received data packet;*

transmitting the *flow header with the received data packet* to a destination if no session identity exists;

receiving the session identity from the destination *using the flow header*; and

transmitting subsequent data packets received from the source along with the session identity to the destination.

Independent claims 9, 13, 21, 25 and 33 similarly recite, in part:

*encapsulating the received data packet in a flow header including at least **two** of a flow message type field, a flow option field, a source port identity field, a destination identity field and a session identity field in the header of the received data packet;*

Regarding these elements of amended claims 1, 9, 13, 21, 25 and 33 the Office Action directs the Applicant's attention to Brendel (col. 10, lines 6-9), wherein Brendel states:

"The Server is assigned using the default load-balancing method, whether random, least-used, or some other assignment method"

The Office Action asserts that such method implies that the destination address of the request is replaced by the address of the assigned server (at least **one** of a destination identity

field). Without conceding the appropriateness of this characterization, Applicant respectfully submits that amended claims 1, 9, 13, 21, 25, and 33 contain a limitation that provides a flow header including at least **two** of a flow message type field, a flow option field, a source port identity field, a destination identity field and a session identity field in the header of the received data packet.

The Brendel reference relied upon only impliedly provides a header including **one** of a destination identity field, whereas amended claims 1, 9, 13, 21, 25, and 33 disclose a flow header including at least **two** of a flow message type field, a flow option field, a source port identity field, a destination identity field and a session identity field in the header of the received data packet. As such, Brendel fails to teach every aspect of amended claims 1, 9, 13, 21, 25, and 33. Accordingly, Applicant respectfully requests that the §102(e) rejection of such claims be withdrawn.

Claims 2 and 6-8 depend from claim 1. Claims 10-12 depend from claim 9. Claims 14 and 18-20 depend from claim 13. Claims 22-24 depend from claim 21. Claims 26 and 30-32 depend from claim 25. Claims 34-36 depend from claim 33. For at least the reason that dependent claims include the limitations of the claims from which they depend, the Applicant submits that claims 2, 6-8, 10-12, 14, 18-20, 22-24, 26, 30-32, and 34-36 are not anticipated by Brendel.

§103(a) Rejection of Claims 3, 15, and 27

Claims 3, 15, and, 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brendel (US Patent No. 6,772,333B1). Claim 3 depends, indirectly, from claim 1, claim 15 depends, indirectly, from claim 13, and claim 27 depends, indirectly, from claim 25. For at least

the reasons set forth below, the Applicant submits that claims 3, 15, and, 27 are not rendered obvious by Brendel.

Brendel is cited as teaching that the “load-balancer reads the incoming packets, extracts the SSL session ID, and finds the SSL session entry in the SSL session table.” Whether or not Brendel discloses the limitations cited by the Office action, Brendel does not teach or suggest *“encapsulating the received data packet in a flow header including at least **two** of a flow message type field, a flow option field, a source port identity field, a destination identity field and a session identity field in the header of the received data packet;”* as recited in claims 1, 13, and 25.

For at least the reason that Brendel does not teach or suggest the above-cited claim limitations, no modification of Brendel teaches or suggests the invention as recited in claims 3, 15, and 27. Thus, the Applicant respectfully submits that dependent claims 3, 15, and 27 are not rendered obvious by Brendel.

Conclusion

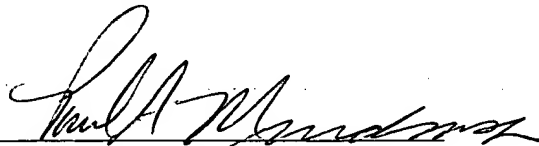
The foregoing is submitted as a full and complete response to the Office Action mailed **June 1, 2005**. In view of the foregoing amendments and remarks, Applicant respectfully submits that pending claims 1-3, 6-15, 18-27, and 30-36 are in condition for allowance and a notification of such allowance is respectfully requested.

Should it be determined that an additional fee is due under 37 CFR §§1.16 or 1.17, or any excess fee has been received, please charge that fee or credit the amount of overcharge to deposit account #50-0221.

If the Examiner believes that there are any informalities which can be corrected by an Examiner's amendment, a telephone call to the undersigned at 503.439.8778 is respectfully solicited.

Respectfully submitted,
Hemal V. Shah, et al.

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Paul A. Mendonsa
Reg. No.: 42,879

Blakely, Sokoloff, Taylor & Zafman, LLP
12400 Wilshire Blvd., Seventh Floor
Los Angeles, CA 90025-1026
(503) 264-3059

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On: December 1, 2005

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Katherine Jennings